

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL  
REDEVELOPMENT AGENCY MEETING  
MINUTES - OCTOBER 16, 2002**

**CALL TO ORDER**

Mayor Pro Tempore/Agency Member Carr called the meeting to order at 6:30 p.m.

**ROLL CALL ATTENDANCE**

Present: Mayor Pro Tempore/Agency Member Carr, Council/Agency Members Chang, Sellers, Tate  
Absent: Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the following closed session items:

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Pro Tempore/Agency Member Carr opened the closed session items to public comment. No comments being offered, the public comment was closed.

### **ADJOURN TO CLOSED SESSION**

Mayor Pro Tempore/Agency Member Carr adjourned the meeting to closed session at 6:31 p.m.

### **RECONVENE**

Mayor Pro Tempore/Agency Member Carr reconvened the meeting at 7:00 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

Mayor Pro Tempore/Agency Member Carr announced that no reportable action was taken in closed session.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

At the invitation of Mayor Pro Tempore/Agency Member Carr, Bill Brown, President of the Morgan Hill Community Health Foundation, led the Pledge of Allegiance.

### **CITY MANAGER'S REPORT**

City Manager Tewes indicated that later, on in the agenda, he would have a report on medical services. In light of this report, he did not have a City Manager's report to present this evening.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter stated that she did not have a City Attorney's report to present this evening other than to indicate that she distributed the Monthly Litigation Summary Report this evening.

### **OTHER REPORTS**

City Treasurer Roorda presented a quarterly report from the Finance and Audit Committee. He addressed the City's general fund revenue for 2000-2003 via a power point graphical presentation.

Council Member Sellers stated that it was important to point out that after the fourth month for each of the previous years, a significant uptake occurred. If you take a look at where the City is now, one may have cause for concern because of the significant gap between the revenue and budget. He said that this trend goes off every year with the first quarter reporting.

Mr. Roorda indicated that it is early in the year and that the City is not off its current budget trends and that there is no cause for particular alarm at this time.

### **CITY COUNCIL REPORT**

Mayor Pro Tempore Carr addressed the following outside committee assignments: 1) City-School Liaison Committee. He indicated that on Friday, October 19 at 4:00 p.m., the long awaited ground

breaking for the new Sobrato High School will take place. 2) Measure P Update Committee, a 19-member task force, is moving forward with looking at different options for updating the City's Residential Growth Control System Ordinance. With the diversity of the task force and set of views, he said that a lot of good ideas have been placed on the table about where the City may want to head. The Committee is starting to thin out different ideas that individuals have raised. He invited the community to contact City Hall if they are interested in the meeting schedule and to let the Committee know what they think about residential growth in Morgan Hill. 3) Housing Community Development Committee, a county-wide committee for cities that receive Community Development Block Grant (CDBG) block grant funds. He indicated that at one of the last meetings, committee members asked staff from the County to return with a report on how CDBG dollars have been spent over the years. County staff returned with the fact that the City of Morgan Hill is the only city that consistently uses these funds. He noted that most other cities roll their funds and are not providing the services that the City of Morgan Hill provides to its citizens with the use of these dollars. He requested that County staff go back to see why other cities are not using CDBG funds and that if cities are not going to be using the dollars, the funds should go back into the pool. This would allow cities like Morgan Hill who are providing the services more dollars versus cities who are bank rolling over \$1/2 million in funds. He said that it is difficult for the City Council not to fill all of the CDBG requests because it does not have enough funds to fill the requests.

Mayor Pro Tempore Carr recognized City Manager Tewes for his 30-years of public service, indicating that an award was to be presented at the annual International City Managers Association to the City Manager, noting that City Manager missed the award's banquet in order to attend the October 2, 2002 Council meeting.

### **PUBLIC COMMENT**

Mayor Pro Tempore/Agency Member Carr opened the floor to comments for items not appearing on this evening's agenda.

Council Member Chang thanked the Dayworker Committee Members for the successful fundraising event that occurred on Saturday, October 19, 2002, especially all Council Members who helped make the event a success. She also thanked City Manager Tewes and Assistant to the City Manager Eulo for their assistance.

No further comments were offered.

### **CONSENT CALENDAR:**

Council Member Chang requested that item number 13 be removed from the Consent Calendar.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, approved Consent Items 1-12 and 14-20, as follows:*

### **1.        SEPTEMBER 2002 FINANCE AND INVESTMENT REPORT**

**Action:** *Accepted and Filed Report.*

2. **AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT - ALCINI PARTNERSHIP**

**Action:** Approved Amendment to Subdivision Improvement Agreement.

3. **AGREEMENT WITH THE STROMBOTNE LAW FIRM**

**Action:** Authorized the City Manager to Execute the Consultant Agreement with the Strombotne Law Firm.

4. **APPROPRIATION OF FUNDS FOR BUTTERFIELD BOULEVARD SEWER TRUNK, BETWEEN MAIN AVENUE AND SAN PEDRO AVENUE**

**Action:** 1) Appropriated \$530,000 from the Unappropriated Sewer Impact Fee Fund (641) to Construct the Butterfield Sewer Trunk, between Main and San Pedro Avenues; and 2) Directed Staff to Prepare Plans and Specifications for Public Bidding.

5. **AMEND PROFESSIONAL SERVICES CONTRACT FOR TRAFFIC SIGNAL DESIGN AT THE TENNANT AVENUE NORTHBOUND 101 OFF-RAMP INTERSECTION**

**Action:** Authorized the City Manager to Execute an Amendment to the Existing Professional Services Agreement with Higgins Associates for Traffic Signal Design Services for the Tennant Avenue Northbound 101 off-ramp Intersection in the Amount of \$7,266, Subject to City Attorney Review and Approval. The Total Amended Professional Services Agreement Shall Not Exceed \$42,266.

6. **FINAL MAP ACCEPTANCE FOR MISSION RANCH PH. V (TRACT 9423)**

**Action:** 1) Approved the Final Map, Subdivision Agreement and Improvement Plans; 2) Authorized the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) Authorized the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

7. **APPROVE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND ANNUAL GOAL**

**Action:** 1) Approved the City's Disadvantaged Business Enterprise (DBE) Program and Annual Overall DBE Goal of 6.7% for the Federal Fiscal Year 2002/2003, Beginning on October 1, 2002 and Ending on September 20, 2003; and 2) Authorized the City Manager, by Adoption of the Council Report, to Sign the Final DBE Program and Submit It to Caltrans on Behalf of the City.

8. **AMEND PROFESSIONAL SERVICES CONTRACT WITH KORVE ENGINEERING FOR TECHNICAL SUPPORT FOR FUTURE MADRONE PARKWAY RAIL CROSSING**

**Action:** Authorized the City Manager to Execute an Amendment to the Existing Professional Services Agreement with Korve Engineering for Technical Support for the Future Madrone Parkway Rail Crossing, in an Amount Not to Exceed \$16,000, Subject to City Attorney Review and Approval.

9. **FINAL MAP ACCEPTANCE FOR COYOTE ESTATES PHASE VI (TRACT 9400)**  
*Action: 1) Approved the Final Map, Subdivision Agreement and Improvement Plans; 2) Authorized the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) Authorized the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.*
10. **COMMUNITY AND CULTURAL CENTER PROJECT SEPTEMBER CONSTRUCTION PROGRESS REPORT**  
*Action: Information Only.*
11. **SUBDIVISION APPLICATION SD 02-05: SUNNYSIDE-QUAIL CREEK**  
*Action: No Action Taken, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*
12. **MEETING START TIMES FOR CITY COUNCIL, REDEVELOPMENT AGENCY AND FINANCE & AUDIT COMMITTEE**  
*Action: Directed the City Clerk to Amend Council Policy 97-01, Section 5.1D and E as Recommended by Mayor Kennedy.*
14. **MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 12, 2002**  
*Action: Approved the minutes as written.*
15. **MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 13, 2002**  
*Action: Approved the minutes as written.*
16. **MINUTES FOR JOINT SPECIAL CITY COUNCIL, ARCHITECTURAL & SITE REVIEW BOARD, BICYCLE & TRAILS ADVISORY COMMITTEE, LIBRARY COMMISSION, CORPORATION YARD COMMISSION, PERSONNEL COMMISSION, PARKS & RECREATION COMMISSION, PLANNING COMMISSION, SENIOR ADVISORY COMMITTEE AND YOUTH ADVISORY COMMITTEE MINUTES OF SEPTEMBER 21, 2002**  
*Action: Approved the minutes as written.*
17. **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002**  
*Action: Approved the minutes as written.*
18. **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002**  
*Action: Approved the minutes as written.*
19. **MINUTES FOR SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF SEPTEMBER 26, 2002**  
*Action: Approved the minutes as written.*

**20. MINUTES FOR JOINT SPECIAL CITY COUNCIL AND GRAND OPENING COMMITTEE MEETING OF OCTOBER 10, 2002**

***Action:*** Approved the minutes as written.

**13. REQUEST FROM THE MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) FOR THE APPROVAL OF THE MORGAN HILL COMMUNITY ADVISORY BOARD (MHCAB) OF SAINT LOUISE REGIONAL HOSPITAL**

City Manager Tewes presented the staff report, indicating that a request has been received from the Morgan Hill Community Health Foundation to approve a charge statement and an appointment process for a community advisory board that would be advisory to the Saint Louise Regional Hospital. He said that the notion of a community advisory board was first introduced a few months ago when the City Council and St. Louise reached an agreement relating to the reopening of the medical office building and the establishment of a community advisory board. Before the Council, is a request from the Foundation for support of the concept and the appointment process as outlined in their letter.

Council Member Chang said that before Mayor Kennedy left for Italy, she spoke with him via phone relating to the medical services issues. She advised him that there were two items on the agenda relating to the current status report and the request to form a community advisory committee. She asked Mayor Kennedy if he would like the Council to review this item or defer discussion until he returned from Italy. It was her recollection that Mayor Kennedy requested that this item be deferred until his return. She indicated that she spoke with the Morgan Hill Community Health Foundation yesterday and today and that Foundation members have indicated that Mayor Kennedy has recommended that this item move forward. She requested Council Member Seller's clarification on Mayor Kennedy's instructions.

Council Member Sellers stated that he serves on the Foundation Board along with Mayor Kennedy and that Council Member Chang serves as an alternate. He said that at the meeting where the discussion item came up, Mayor Kennedy and he were in attendance to discuss the item. He said that there are several reasons to proceed with the item this evening and that it was his recollection that Mayor Kennedy concurred with proceeding with the item. He recommended that the Council proceed with the item this evening.

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, Approved MHCHF's Request for the Establishment of the MHCAB of Saint Louise Regional Hospital.*

**CONSENT CALENDAR ITEMS 21 - 24:**

Council Member Chang indicated that she would be recusing herself from agenda item number 21 and Mayor Pro Tempore Carr indicated that he would be abstaining from agenda item 24 as he was not in attendance at said meeting.

**21. AWARD CONTRACT FOR CONSTRUCTION OF THE WELL ABANDONMENT**

## **PROJECT**

- Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 3-0 vote with Council Member Chang recusing herself and Mayor Kennedy absent, **Awarded** Contract to Maggiora Bros. Drilling, Inc. for Construction of the Well Abandonment Project in the Amount of \$31,175.*
- Action:**      *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Approved** consent calendar items 22 and 23 as follows:*
22.      **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 22, 2002**  
**Action:** ***Approved** the minutes as written.*
23.      **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 23, 2002**  
**Action:** ***Approved** the minutes as written.*
24.      **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF OCTOBER 2, 2002**  
**Action:**      *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 3-0-1 vote with Mayor Pro Tempore Carr abstaining and Mayor Kennedy absent, **Approved** the minutes as written.*

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

- Action:**      *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Agency Member Carr, the City Council/Agency Board, on a 4-0 vote with Mayor/Chairman Kennedy absent, **Approved** Consent Item 25 as follows:*
25.      **MINUTES FOR JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 25, 2002**  
**Action:** ***Approved** the minutes as written.*

### **CONSENT CALENDAR:**

Mayor Pro Tempore/Agency Member Carr indicated that he would be abstaining from agenda item 26 as he was not present at said meeting.

- Action:**      *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board, on a 3-0-1 vote with Mayor Pro Tempore/Agency Member Carr abstaining and Mayor/Chairman Kennedy absent, **Approved** consent calendar item 26 as follows:*

**26. MINUTES FOR JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF OCTOBER 2, 2002**

**Action:** *Approved the minutes as written.*

***Redevelopment Agency Action***

**Action:** *On a motion by Agency Member Tate and seconded by Agency Member Carr, the Agency Board, on a 4-0 vote with Chairman Kennedy absent, Approved Consent Calendar Items 27 and 28 as follows:*

**27. ACCEPT DONATED UTILITY VEHICLE FOR THE COMMUNITY AND CULTURAL CENTER**

**Action:** *Accepted the Donation of an Electric Utility Vehicle from Global Electric Motors for Use at the Community and Cultural Center.*

**28. MORGAN HILL PLAZA RE-USE STRATEGY (CONLEY CONSULTING GROUP)**

**Action:** *Authorized the Executive Director to Execute a Contract with Conley Consulting Group for the Morgan Hill Plaza Re-use Strategy, in an Amount Not to Exceed \$46,220, Conditioned Upon the Approval of Agency Special Counsel.*

***City Council Action***

Based on Council Policy, the Council cannot consider public hearing items until 7:30 p.m. Therefore, the Council agreed to hear item 32 at this time.

**OTHER BUSINESS**

**32. STATUS REPORT ON MEDICAL SERVICES**

City Manager Tewes presented the staff report, indicating that the issue of how to improve and provide medical services in the community has been an important topic for the Council the past several years. He noted that in April 2000, the Council adopted a set of medical services objectives that talk about preserving the former Saint Louise facility for future reconversion to an acute care hospital. The Council identified a series of other medical services objectives, including important things such as making sure that the city has enough primary care physicians in town. After a series of studies and reports, including a report from a Blue Ribbon Committee of citizens, the Council initiated the formation of the Morgan Hill Community Health Foundation and charged the Foundation with preparation of a plan on how to accomplish/implement the objectives. He said that it is expected that the Foundation would present its report and plan to the Council in November. Even before this time, the Council requested a status report on medical services and the prospects for medical services in the community.

City Manager Tewes informed the City Council that over the past weeks, he has had the opportunity to speak with representatives of the Foundation and their executive director as well as with representatives from St. Louise Regional Hospital, Kaiser Permanente, San Jose Medical Group and



other potential providers. He said that the report presented to the Council this evening conveys good work from John Ray, executive director of the Foundation, outlining what each of the issues are and what is taking place with respect to these.

City Manager Tewes said that an important concern of the community is the announced bankruptcy and closure of the facility operated by the San Jose Medical Group on Juan Hernandez Drive. He indicated that the CEO of the San Jose Medical Group has expressed to him their plans which include informing all patients whose doctors are affected by this closure of substitute physicians to whom they will be referred. He said that the San Jose Medical Group is making arrangements to ensure that those patients who are covered by insurance will be covered by another group. This may mean, in some instances, that individuals will have to see their physicians elsewhere in South County and not in Morgan Hill.

City Manager Tewes indicated that he has spoken with representatives from Kaiser Permanente who indicates that they have approximately 16,300 members who live in Morgan Hill and that they are looking for ways to expand their presence in Morgan Hill. However, they have not yet determined how to do so and that they would be evaluating this in the upcoming months.

City Manager Tewes stated that St. Louise Hospital representatives are engaging in a variety of efforts to expand medical services in the community. This would include reopening of the medical office building at the former St. Louise campus in Morgan Hill. The Foundation continues its efforts to attract physicians from outside the community and to fill the medical office building. With the loss of the San Jose Medical Group facility, there would be no after hours urgent care in the community. He said that this is a concern to the Foundation and to other medical providers. He said that the Foundation is working with a number of potential providers of urgent care services who might locate at the medical office building or other facilities in the community. He said that the Council would learn more when the Foundation returns later of November. He indicated that representatives of the Board and the executive director were in attendance should the Council have questions of them.

Bill Brown indicated that the Board would present a formal report upon Mayor Kennedy's return. He said that the efforts of the Foundation's executive director are in front of the Council and are self explanatory.

John Ray walked the Council and public through a matrix of the Foundation's evaluation of recent medical developments, their implications/effects, issues that pertain to how the Foundation is approaching resolution to these problems, and current initiatives taking place. He indicated that the Foundation has been pursuing a plan to reestablish healthcare services in Morgan Hill. He stated that the Daughters of Charity retook control of the hospital facility and gave the Foundation a partner to work with. He said that the Foundation has worked with the Daughters of Charity to open medical office buildings. The Foundation has recruited a couple of new physicians. He indicated that the San Jose Medical Group recently made decisions to close the urgent care clinic and their pending closure of their primary care clinic. He indicated that on these two issues, St. Louise Regional Hospital is prohibited, by law, from financially supporting physicians who are currently members of its medical staff. If a community need can be demonstrated, they can spend hospital resources to bring new physicians to the community. However, the financial relationships between

hospitals and physicians are severely circumscribed and regulated under the Federal Fraud and Abuse regulations to prevent abusive behavior in terms of financial relationships between doctors and hospitals. Therefore, the hospital cannot do anything to support the current San Jose Medical Group physicians as they are members of the hospital medical staff. He said that the Foundation has been actively working with several physician organizations who have expressed an interest and intention of establishing an urgent care operation in the community. He indicated that the Foundation is currently working with several physician organizations in putting together plans in a concrete form to bring before the Council. However, it may be possible that the plans may not be concrete as a lot of issues are under negotiations. He indicated that the recruitment of physicians is an expensive undertaking. Physicians are looking for assistance in establishing their practices as well as income guarantees for a year. He said that the Foundation does not have the financial resources to make the kinds of offers physicians are looking for. The Foundation is still hoping that they can get the physicians to agree to forebear their decisions until it can raise further funds to retain them in the community. If not, the Foundation would increase its efforts to recruit new physicians in the community.

Council Member Chang stated that she was interested in the status of patients with the San Jose Medical Group. She inquired as to Mr. Ray's evaluation with this regard.

Mr. Ray said that one physician has decided to return to former employment and that the status of the other physicians is unclear. It is his understanding that one physician has made a decision to join a practice in San Jose but that he does not have confirmation of this fact. He is hoping to meet with other physicians to see if they have flexibility and the ability to put off their professional decisions while the Foundation can develop the funds to retain them in the community. However, he was not sure if he would be successful in this effort as the physicians have families and mortgages to pay.

Council Member Tate noted that Mr. Ray has spoken about the need to put together an economic assistance retention package and that the Foundation is trying to do this through fundraising efforts. He inquired how citizens can be encouraged to increase the use of an urgent care facility so that it can encourage its existence in the community?

Mr. Ray responded that this is the case of "use it or lose it." He said that to a certain extent, Saint Louise Hospital closed for this reason. He encouraged every citizen who has insurance to use local resources or the community won't have them. He indicated that the City has two new OB-GYN physicians who have located to Morgan Hill and encouraged citizens to patronize them. The Foundation is working on both long term and short term medical service needs, noting that the major impediment to rapid movement is funding.

Mr. Brown stated that last time he was before the Council, he promised not to come back before the Council to request money until the Foundation was able to raise funds from the public. He said that he was not before the Council asking for money. However, everyone is surprised by the closure of the San Jose Medical Center. He said that this has changed the formula and changed what the Foundation is capable of doing. The problem that the Foundation is facing is that it does not have the funds to help alleviate this situation. He said that the Foundation is out actively attempting to raise funds and that without these funds, the Foundation cannot bring doctors to Morgan Hill nor provide the leadership for the Foundation that would bring the doctors here.

Mayor Pro Tempore Carr indicated that the Foundation would be before the Council next month with a comprehensive and complete report, recommending a long term strategy for the Council to have a dialogue about and be able to move forward with the strategy.

Mr. Ray said that the strategy would be the work of the Joint Planning Task Force that would present a plan of the Foundation and St. Louise Regional Hospital. He clarified that this would not be the entire Foundation Plan but is the centerpiece because it has to do with the very important facility and its future use and the rebuilding of a medical staff for this facility. He said that the Foundation intends to have a plan that looks to the long term and provides the context for the joint plan with St. Louise. It is his intention to have a plan that would describe the longer term vision of the Foundation and lays out the strategies to achieve the longer term vision.

Joe Mueller, member of the Foundation Board, stated that this is a critical period of the year as October is the month that individuals select their medical health plans. He felt that it was crucial for citizens to select plans that use physicians in Morgan Hill and that citizens use the St. Louise Regional Hospital because it is a use it or lose it situation. He said that it is a plea to citizens and employers to make sure that when health plans are being put together that it considers bringing forward medical plans to employees that would allow use of physicians in Morgan Hill and St. Louise Regional Hospital.

City Manager Tewes indicated that he spoke to Mr. Terry Austin with Kaiser Permanente who is in charge of this region who has indicated that they have 16,300 Kaiser members who live in Morgan Hill. Mr. Austin indicates that Kaiser would like to expand its presence in Morgan Hill but that they have not yet determined how to do this and did not expect to do so in the next month or two.

Council Member Sellers felt that this number would be composed of the greater Morgan Hill area otherwise, they would be at odds with the 30% enrollment. He requested that this number be verified as the Kaiser membership is almost 50% of the Morgan Hill population.

Council Member Chang said that she received a call from a citizen who was ill and unhappy about having to take her husband to urgent care twice today, even though she has cancer and is undertaking chemo therapy herself. She inquired whether something can be done to assist individuals like this? She asked how it can be ensured that there would be a smooth transition so that by the time the San Jose Medical Group facility is closed, citizens have a place to go.

Mr. Ray stated that he also has had conversations with Morgan Hill residents who are concerned about the loss of their physicians with the closure and transition. He said that the Foundation is not structurally in a position to help manage the transfers from the San Jose Medical Group. He said that the Foundation can monitor the situation but that the Foundation does not have the resources, money or staff to actively take on the task of ensuring patient by patient transition. He said that there are process issues involved that the Foundation is not privileged to. He stated that there is the difficult issue of the availability of other physicians who can take on patients and their insurance providers.

Mayor Pro Tempore Carr noted that the Foundation indicated that it is working with the physicians to see if there is a way the community can retain doctors in Morgan Hill.

Mr. Brown said that the Foundation employed Mr. Ray on a 3-day a week basis to assist in this effort. Because of finances, the Foundation has had to cut back his employment to 1-day a week. He said that Mr. Ray is spending more than this amount of time assisting the Foundation but that this is not enough time to accomplish what needs to be done. While the Foundation is not asking the Council for money, he said that the only thing that can help the Foundation is the release of the balance of the funds to the Foundation so that it can continue its work.

Council Member Chang requested that the Foundation assist the City with the critical medical situation. She said that she would assist with fundraising efforts for this endeavor as physicians are needed in Morgan Hill.

Mayor Pro Tempore Carr noted that next month, the Council would be presented with a complete report and a recommended long term strategy. This would allow the Council to have a greater discussion about the issue.

Mr. Brown said that the plan may not be sufficient to meet the immediate needs that the community has. As the Foundation will not be able to present the plan for a month and many decisions are being made during this period of time that would impact the health care in Morgan Hill, he felt that the Council needs to step back and take a look at what it intends to do. If the Foundation comes to the Council with a plan 30-days from now, it would be too late. He said that the steps need to be taken immediately with respect to primary care physicians in order to be able to make offers to physicians to bring them into the community and into the medical office building so that patients can be assigned to doctors who will practice in Morgan Hill.

Mr. Ray said that St. Louise Hospital is in the final stages of finalizing a recruitment agreement with another primary care physician. He noted that the Council approved the release of funding to augment the St. Louise Regional Hospital's physician recruitment efforts. He said that the Foundation would provide support to the Gilpins and to this physician, assuming that everything goes as planned. He said that the only way to remedy the shortage of physicians is to be able to offer attractive packages to the physicians that are currently practicing at the San Jose Medical Group Clinic to keep them in the community. He said that these physicians have families to support and that they are in demand. He said that these physicians are making decisions about alternative places that they can go in order to continue their income.

Council Member Chang inquired as to the feasibility of requesting that the San Jose Medical Group delay the closure of their facility and request that some doctors stay on until the new physician come on board.

Mr. Ray indicated that he would be looking to meet with all of the physicians to see if they would be willing to take a risk on their professional and personal decision making in the interest of continuity care for their patients. He did not know what their responses would be but that it would be his intent to buy the City some time. He said that the Foundation would be launching focused fundraising campaigns for both urgent care and the retention/recruitment of primary care physicians to address the short term problems.

Mr. Brown appealed to the residents of Morgan Hill by stating that the Foundation is a 501c3 non

profit organization and that contributions to the Foundation are deductible for income tax purposes. Donations would be appreciated and would be used to benefit medical care in the community.

Council Member Sellers said that this is not an isolated incident and that the City Council is not suddenly taking on this issue. He said that the Council has been dealing with this issue for the past four years. He stated that he appreciated that individuals are angry about the medical care issue. He felt that everyone needs to keep medical services in perspective and understand what the City Council is capable of doing and what is beyond their capability. He stated that this is a large issue, an issue that is not traditionally taken on by cities. He said that Morgan Hill is a small city and that a city 30 times the size of Morgan Hill to north cannot prevent the closure of one of their major facilities. He said that it is difficult to expect that Morgan Hill can suddenly solve its healthcare and medical services deficiencies. He felt that Morgan Hill has done a lot and that this needs to be acknowledged (e.g., fought efforts to eliminate facilities, helped to reverse this trend, set a course on developing the Community Health Foundation in bringing on experts, etc.). He felt that the recent actions may offer the City opportunities to provide greater health services in the long term. He said that the City is a position where there are fewer doctors in place versus 30 years ago and that this is an intolerable situation. He did not believe that the Council or anyone in the community feels that this is an acceptable situation. He felt that it was important that the Council consider some interim steps to expedite funding resources and that this should be agendaized for a subsequent meeting for further discussion. He appreciated the frustration that individuals are having and appreciated the efforts on the part of the Foundation board members, Council members and other members in the community. He indicated that reestablishment of medical services in the community would take a while.

Mayor Pro Tempore Carr opened the floor to public comment.

Anita DuJardin, 16860 Sundance Drive, expressed concern about the state of medical services in Morgan Hill. She indicated that Kaiser Permanente is her healthcare provider but that she has had occasions to use St. Louise Hospital when it was in Morgan Hill. She has relatives that visit from out of state who often have a need for healthcare services and cannot use Kaiser. She worries about citizens who no longer have medical services available in Morgan Hill. She said that it was hard for her to understand why a city of at least 30,000 citizens is not able to support medical services of any kind, noting that she grew up in a small town in the Midwest of approximately 8,000 individuals which had a hospital with a fully staffed emergency room 24-hours a day, 365 days a year. If a community of this size can keep a hospital going, she felt that there must be some way that a community, the size of Morgan Hill, can figure out how it can recruit and retain doctors, and medical services, including a hospital. She said that urgent care is vital to a community.

Council Member Tate appreciated Council Member Sellers' comments and concurred with his comments. He said that the community will need to help the city to recruit physicians and to participate in the Foundation's fundraising efforts in order to make this work. However, if no one participates and utilizes the medical facilities, it would not work. He agreed with the speaker that it seems obvious that it should be easy to sustain medical services anywhere, noting that the economic reality is that this will not succeed unless the community makes it work. He felt that the Council needs to do its part and requested that the community get involved as well.

Council Member Chang said that the current situation is that the San Jose Medical Group will be leaving the community in approximately 1½ months. She recommended that the Foundation look into a temporary solution such as requesting that the physicians extend their stay a couple of months while other plans are worked out.

Mr. Brown said that the San Jose Medical Group is operating under bankruptcy rules. He did not believe that they would be allowed to continue to do something that loses money. He said that the Foundation would discuss extending medical services with the current San Jose Medical Group physicians. However, he noted that a facility would need to be provided in order to get physicians into other suites at the medical office building and that this would take money.

Mr. Ray indicated that it is expensive to provide temporary facilities to physicians. He said that St. Louise Hospital does not employ physicians. The physicians are independent professionals who are members of a voluntary medical staff at St. Louise. He indicated that the Foundation can approach St. Louise and request that doctors be loaned. He stated that the Foundation is talking with St. Louise's medical staff about establishing practices in Morgan Hill. It is his hope that discussions have gone far enough that the Foundation will have concrete proposals in addition to a report to present to the Council in November. He said that he appreciated Council Member Chang's creative thinking about trying to solve a near term problem and that the Foundation is creatively thinking about how to do so as well.

Mr. Mueller said that there is a way to solve medical problems and that it starts with dollars. He said that the City needs to determine how much it is willing to spend for a short term solution and how much pain the City and the communities want to go through to get through this crisis and into a long term solution. He said that it may not be realistic to retain the current physicians and that the City may need to recruit new doctors. He said that it takes time to convert group practices into individual practices. He felt that it would take significant dollars to achieve short term solutions that the Foundation does not have at this time. It will take corporations, other individuals or the City Council to provide significant financial support to accomplish short term solutions.

Mayor Pro Tempore Carr said that the Council is interested in creative ideas to solve the current medical situation. He acknowledged that this is not a situation that it can solve on its own and that it would take the involvement of the community for both the long term and short term salvation of medical services in Morgan Hill.

**Action:**        **No action taken, Information Only.**

### **PUBLIC HEARINGS:**

Mayor Pro Tempore Carr indicated that items 29-31 are public hearing items of which the Council would not be taking action on this evening. He said that the Council will open each item for public comment and that each item would be continued to November 6, 2002, each being appropriately noticed for that meeting.

### **29.     DEVELOPMENT AGREEMENT AMENDMENT DA 02-04: SUNNYSIDE-QUAIL CREEK**

Planning Manager Rowe presented the staff report. He recommended that the public hearing be continued to November 6, 2002 so that staff can provide a new public notice for the November 6, 2002 meeting.

Mayor Pro Tempore Carr opened the public hearing. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Continued** the public hearing to November 6, 2002.*

**30.        GENERAL PLAN AMENDMENT APPLICATION, GPA 02-02: WATSONVILLE-CITY OF MORGAN HILL RDA & ZONING AMENDMENT APPLICATION ZA-02-06: WATSONVILLE-CITY OF MORGAN HILL RDA**

Planning Manager Rowe presented the staff report. He recommended that the City Council continue the public hearing to November 6, 2002 following receipt of public testimony.

Mayor Pro Tempore Carr opened the public hearing.

Stacey Thornburg, 275 Via Naretto, indicated that she would be unable to attend the November 6, 2002 meeting due to training. She stated that adjacent homeowners met with representatives of the builder last night. She said that when she first purchased her home in the subdivision, homeowners were promised a city park. She indicated that all 24-homeowners were under the assumption that a park would be built. It is now understood that a BMR-type housing project is being proposed which consists of 12 units on the 1.5 acre parcel, indicating that it was her belief that it was originally introduced as 7 units. She felt that 12 units are too many and expressed concern with the traffic flow that would be created, noting that a traffic problem already exists. She felt that the corner needs to be re cut to accommodate the visual situation to reduce accidents. She did not understand why the City is trying to create an entire program of BMR units as there are individuals who have a need for regular housing.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Continued** the public hearing to November 6, 2002.*

**31.        OUT OF SERVICE AREA REQUEST, OSR-02-02: MANZANITA-MCLAREN**

Planning Manager Rowe presented the staff report and requested that the public hearing be continued to November 6, 2002 following receipt of public testimony.

Mayor Pro Tempore Carr opened the public hearing. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Continued** the public hearing to November 6, 2002.*

**32. NOTICE OF PREPARATION FOR THE PROPOSED SANTA CLARA COUNTY COURT FACILITIES**

Planning Manager Rowe presented the staff report.

Council Member Sellers expressed concern with the design issues as they relate to the Environmental Impact Report (EIR). He recollected reading that the parking facility was slated to be adjacent to the railroad tracks with the thought that a nice building would be facing toward or on Butterfield Boulevard with the parking next to the railroad tracks. He said that this may be well and good unless one is located on the other side of the track, noting that the city's downtown is located on the other side of the tracks. He expressed concern that the courthouse facility would impact aesthetics, land use and planning, population and housing, and public services. He felt that it was important to look at the impacts in a comprehensive way. He noted that there is reference in the summary project purpose of the economic-social benefits to the community located in proximity to the downtown area. He felt that it was in congress to him that the county would locate a facility that would not only be aesthetically detrimental to the downtown area but would cut off the courthouse usage from the downtown. He requested that this mitigation be considered and that the County look at alternatives.

Council Member Tate stated that he was confused by the total project because the Council does not know what the total project is. If the County will be using a courthouse that precludes the use of space for police or fire facilities, he inquired how the project level EIR addresses what will end up being built?

Mr. Rowe stated that the EIR would look at two alternatives: 1) full use of the site by the County for court facilities; and 2) an alternative that would have a slightly smaller court facility, providing an acre or two of land to the City to build its facilities. He clarified that the report would include project alternatives as a requirement in terms of the content of the EIR. However, for the purposes of the impact analysis, staff recommended that the report look at an alternative scenario that would include a joint use of the site that would include City facilities as well as county facilities.

Council Member Chang said that staff advised her that based on the proposed size of the courthouse, the site can only accommodate a courthouse and a fire station.

Mr. Rowe stated that one of the possibilities being considered as part of the update to the Fire Master Plan is the fact that this site would be a good location for locating a third fire station. The site was also looked at as a possible location for a new police station. He said that it has been indicated that based on how this project evolves that it would be unlikely that there would be enough room to build a third fire station, new City police station and a county court facility on the combined site. However, there may be sufficient space to place a courthouse facility and a third fire station or city police station. He indicated that the Planning Commission is stating, in their comments, that the EIR should look at these possibilities and determine impacts.

Council Member Chang inquired whether the site is a good location for a third fire station?

Council Members Sellers and Tate both felt that the Butterfield site was an excellent one and that



the preferred location for a third fire station is based on its centrality to the community.

Mayor Pro Tempore Carr indicated that it was initially felt that adjoining the City's police station with the courthouse would result in possible cost savings in construction dollars. He felt that it was important for the Council to state this evening that the City wants to make sure that the EIR explores these scenarios. Doing so would not necessitate the City requesting that alternatives be considered at a later date.

Mr. Rowe indicated that when he prepared the report for the Council, he was not certain to what extent the City would be in a position to provide information to the environmental consultant to perform a project level environmental analysis. He has learned, since the writing of the report, that the City would be in a position to provide the information to the consultant. He did not believe that this would be an objection to the consultant as it would not delay their ability to proceed with the preparation of the draft EIR.

Mayor Pro Tempore Carr noted that the scope of the project has increased in terms of square footage of the facility and the acreage the County suggests that they need. He stated that he has been vocal about his opposition to the courthouse at this location but that he was not opposed to a courthouse in Morgan Hill. He said that since the time Board of Supervisor Gage sat down with the City and discussed an agreement on the project, the scope of the project has grown. This is a concern to him, noting that when he used to live in the neighborhood, his neighbors had a lot of concern about the location of the facility and its impact to the neighborhood. Now, with the scope of the project growing, he was afraid that neighborhood concerns may have grown as well. He felt that as changes occur, the County/City needs to make the project positive and not more impactful to neighborhoods.

Council Member Tate indicated that he shared Mayor Pro Tempore Carr's concern. He did not know how the County can increase its scope because the City's agreement with the County was for a six-acre site for a courthouse facility. Now, the County is increasing their project because there is additional land. He agreed that the courthouse structure would be more of an impact and would be taking away from the City's ability to place city services on the site. He did not believe that the City would be able to construct either the police or fire stations if the County continues to take additional land.

Council Member Sellers recalled that the County indicated that they needed 6+ acres and talked about a facility that would not require this amount of land. He did not believe that the City anticipated the facility to be as is being proposed. He inquired as to the County's intent for requesting a larger facility?

Mr. Rowe responded that he was not aware of the initial square footage proposed by the County. He indicated that the County is still evaluating the impacts of developing on the eight-acre site with two buildings totaling 79,000 square feet.

Director of Business Assistance and Housing Services Toy addressed the initial scope, indicating that a 60,000 square foot facility was proposed before conducting programming needs. The County felt that six acres would be able to accommodate a facility of this size. The County is still operating

under the premise that six acres is sufficient but that they are now looking at an 80,000 square foot facility with six court rooms. He said that the County has conducted programming needs and that they realized that they need more space to accommodate all their services. He indicated that the County has not committed to how the increased project size would be financed, noting that originally, the project was estimated at \$23 million and that it is now estimated at \$40 million. He said that the Board has not made any commitments on their bond issue. The County is proceeding ahead as if they can fit 80,000 square feet on a 6+ acre parcel.

Mayor Pro Tempore Carr opened the floor to public comment.

Joe Mueller, speaking as a private citizen, stated that it was his understanding that the sheriff's substation would not be relocated to this site and would remain in San Martin. He felt that it was important to him that the City has an option to place the police station next to this facility if it can work. He noted that Morgan Hill citizens are already concerned with the impact of the courthouse facility. He felt that one way to alleviate some of the citizens' concerns is if the City's police department is headquartered as part of the complex. He recommended that the City use whatever leverage it can with the County to ensure that they understand that the courthouse facility is being sited in the middle of the community and that there are physical attributes on how it looks next to the downtown. There is also a need to reassure Morgan Hill citizens that they are going to be protected from detriments by having this type of facility in town. He said that the City is putting a significant amount of money into this project and felt that the City should receive some consideration for this.

Council Member Sellers stated that public safety is paramount to this project. He sees that there would be law enforcement personnel at the facility at all times of operation. He did not believe that there were substations at any of the other courthouse facilities but that there was sufficient law enforcement personnel. He felt that the Council needs to assure the community that the safety issues would be addressed.

Mayor Pro Tempore Carr said that he would like to know from the County the additional programming to be conducted in the additional 20,000 square feet. He wanted to know if it is a lot more than what was told the community and contained in the initial agreement with the County? He recommended that it be stressed to the County that the Council is interested in providing some of the city's public services on some of the acreage. As the scope of the project increases, he felt that the parking would also increase. He inquired whether parking would be gated parking and only available for courthouse usage during courthouse hours or would parking be available for downtown usage during non courthouse times or even during courthouse times. He stated that he did not want to see a chain-linked fence with barb wire around the parking lot and it sitting empty on weekends when the community can be using it.

Council Member Chang inquired whether the agreement with the County indicated the size of the building(s)?

City Manager Tewes responded that the Redevelopment Agency and the County have a contract that sets forth a series of steps, some of which have taken place and others are in the process. One of the steps was that the Agency would acquire a site for the courthouse. He indicated that the County has

provided consent for the site that consists of approximately 7.8+ acres on Butterfield Boulevard, near Diana. He stated that from the onset, the County indicated its desire to have a courthouse of a certain size (e.g., 60,000 square feet). He indicated that the agreement does contemplate the possibility that the County could expand its facilities after proper environmental review without any impact to the City's financial obligation. There is a requirement in the contract that the City and the County engage in jointly master planning the site in order to accommodate certain important uses. One of these is access from the parking and public areas across the railroad tracks to the downtown. The other item called out in the agreement was to jointly master plan the site to accommodate the City's interest in a police station. He said that subsequently to the City entering into this contract, the City completed the Fire Master Plan and that other thoughts were indicated with regard to what public facilities were needed in the area. He stated that a fire station was not contemplated at the time of entering into a contract with the County. However, the contract does contemplate the possibility that the County could use the entire site that was acquired for their facilities subject to the Design Guidelines. He said that conditions were established by contract. Therefore, the design work being undertaken by the County has to be consistent with the Design Guidelines.

**Action:**        *By consensus, the City Council **Directed** Staff to Forward its comments on the Notice of Preparation to the County of Santa Clara GSA.*

### **33. ANALYSIS FOR ALLOWING LARGE GROUP ASSEMBLY FACILITIES IN UNINCORPORATED AREAS OF SANTA CLARA COUNTY**

Planning Manager Rowe presented the staff report.

Council Member Sellers referred to page 282 of the agenda packet, third bullet, "Consistency with Land Use Policies." He noted that the last sentence should read "**un**incorporated" area of Morgan Hill. He referred to page 9 of the County's report where they talk about shared parking and reuse for infill situations and how San Jose addressed/accommodated some of the large group facilities by allowing shared parking, reuse and infill. However, the Cities of Morgan Hill and Gilroy have not because the need has not been raised to date. He said that there would be parking relating issues that the Downtown Task Force is looking at.

In response to Council Member Sellers inquiry, Mr. Rowe indicated that the City does not have plans to reconsider some of its policies other than addressing it as part of the Downtown Plan.

Mayor Pro Tempore Carr requested that staff address some of the issues that resulted in a 5-2 Planning Commission recommendation to forward comments to the County.

Mr. Rowe indicated that overall, there was a complete consensus by the Planning Commission that certain types of facilities would be inappropriate. One Commissioner felt that recreational facilities, such as the soccer complex, would be appropriate to locate in the rural unincorporated areas. He said that another Commissioner felt that there may be some limited situations where it would be appropriate to allow large group assembly facilities. The Commission felt that should such uses be allowed, that strict rules be established so that the door is not opened to urban-type uses and that they try to place the uses near city boundaries so that they can serve jurisdictions. He stated that the minority view was that there should be some exceptions, primarily in recreational types of facilities.

Council Member Chang noted that a recommendation of the Planning Commission was that should large group facilities be allowed, the City should allow them to be constructed near the City limits. She inquired if allowing large group facilities adjacent to the city limits would result in annexation without going through the annexation process?

Mr. Rowe said that development of a project to an urban scale, under normal circumstances, would only occur within the incorporated area of the City. However, the end result would be similar to an urban level of development but residing outside the city limits.

Council Member Chang inquired whether the City would lose control if the County approves a large facility?

Mr. Rowe indicated that it is County policy to send a referral notice to the City and request City comments on a proposed large facility. The County would take the city's comments into consideration and factor these comments into their decisions. However, the County would retain jurisdiction over the land use decision. He noted that the County has an agreement and policies contained within their General Plan that stipulates that they would only allow uses that would be consistent with Morgan Hill's General Plan within the unincorporated area. The County would need to place this agreement aside if the County is to allow a large use because the City's General Plan does not make accommodations for large facilities in unincorporated areas within the City's urban growth boundary.

Council Member Chang inquired whether the City should make a stipulation that the City is to retain some control for large facilities when located in the City's urban growth boundary?

Mr. Rowe stated that the recommendation from the majority of the Planning Commission and staff was that the County should not change the fundamental policies but to encourage these types of uses to locate within the incorporated city limits of the affected jurisdiction, in which case, the city does not have to pursue this path. He clarified that the Planning Commission felt that if a decision, on the part of the Board, is to allow uses in the rural unincorporated area, that they should occur within an area that is near a city limit so that they can serve the adjacent urban population and be built consistent with that city's development standards.

Council Member Tate and Mayor Pro Tempore Carr concurred with the Planning Commission and staff's recommended direction.

Council Member Chang stated that she did not support large facilities adjacent to the city limits or the urban growth boundary. She would prefer that large facilities be located away from the City limits so that they do not utilize city services and that they be serviced by the County.

Mr. Rowe clarified that the Commission was not stating that the City support a change in County policy to allow these facilities in the rural unincorporated areas. The Commission is stating that if this change in policy were to occur, that large facilities be placed in areas near city limits so that the facilities can also serve the urban population. The reason for the recommendation to build consistent with city standards is the expectation that at some point in time, the city boundary would expand to include the facility.

Council Member Tate stated that the argument is to site large facilities adjacent to the City so that the City can control the use, its location and development standards. He recommended that the policy be retained as exits.

**Action:**      *It was the consensus of the Commission to **Direct** Staff to Forward City Comments on the Subject Report to the County Board of Supervisor's Housing, Land Use, Environment, and Transportation, indicating that the City wants to retain the policy as currently exits.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

Commissioner Tate requested that staff agendize the discussion of parking lot sales and how they get permitted. He referred to an event that occurred at Tennant Station a couple of weeks ago that should have received some level of review to see if the use was appropriate for the City.

#### **ADJOURNMENT**

There being no further business, Mayor Pro Tempore/Agency Member Carr adjourned the meeting at 9:10 p.m.

#### **MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk/Agency Secretary**

